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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,546	10/18/2004	Hiroshige Deguchi	52363-023	6507
20277 7590 01/27/2009 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				
EXAMINER				
TURNER, KATHERINE ANN				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
01/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/511,546

Applicant(s)

DEGUCHI ET AL.

Examiner

Katherine Turner

Art Unit

1795

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 3-5.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Dah-Wei D. Yuan/
Supervisory Patent Examiner, Art Unit 1795

/K. T./
Examiner, Art Unit 1795

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed January 15, 2009 have been fully considered but they are not persuasive. Applicant's principal arguments are: (a) Hasegawa et al. does not disclose a technique for determining the optimum scale of the rechargeable battery system that is coupled to the power generation equipment, and (b) that the combination of Hasegawa et al., Clarke et al. and Oga et al. teach the determining of an average value and a standard deviation from wind speed distribution, unlike the invention's determining the standard deviation from a variation in the statistically calculated required output of the redox flow battery itself.

In response to Applicant's arguments, please consider the following comments. (a) the only claim recitations that correlates with determining the scale of the power generation equipment are recited as "number of the batteries" and "number of the DC/AC converters for converting the battery output," both of these limitations are listed in the alternative, "at least one of," with the limitations met by Hasegawa et al. in view of Clarke et al. and Oga et al. being the determination of the specified output of the redox flow battery and the specified output of a DC/AC converter for converting the battery output based on the average value and the standard deviation; and (b) the disclosed invention does appear to have a different method of determining the standard deviation than the combination of Hasegawa et al., Clarke et al. and Oga et al., with Oga et al. teaching the calculation of the standard deviation to determine the output for the battery, and the desire to use these calculations to provide wind-power-generation equipment which is not concerned with change of wind speed (drawing 3, paragraphs 13-15), but Oga et al. does not appear to teach the calculation of the average value and standard deviation based upon the variation in the statistically calculated required output of the redox flow battery itself, the claims only recite "a standard deviation," but the claims do not give any further limitations as to what the standard deviation is to be based on. Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. See In re Zletz, 893F.2d 319, 321-22, 13 USPQ2d, 1320, 322 (Fed. Cir. 1989), MPEP 716.01 and 716.02.